

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Sri ThummalaBhaskar Rao, S/o Late Subbaiah, R/o Asannagudem Village, Dammapeta Mandal, Bhadradi Kothagudem District against the orders of the Addl. Agent to Govt., Khammam in CMA No. 66/2007, dated 28-06-2008 in respect of Acres 9-11 guntas in Survey No. 1294 of Nagupalli Village, Dammapeta Mandal, now Bhadradi Kothagudem District- Rejected - Orders - Issued

TRIBAL WELFARE (LTR)DEPARTMENT

G.O.Ms.No. 10

Dated: 14-03-2018,
Read the following:-

Ref:1) Revision Petition filed by Sri ThummalaBhaskar Rao, S/o Late Subbaiah, R/o Asannagudem Village, Dammapeta Mandal, Bhadradi Kothagudem District. dated : 05-10-2008.

2) Govt.Memo.No.9839/TW.LTR-2/2008,Dt:12.01.2009.

3)From the Addl.Agent to Govt., Bhadrachalam, RP No.9839/LTR-2/08 (CMA No.66/2007),Dt:16.02.2009.

4)Govt.Lr.No.9839/TW.LTR-2/2008, dated:27.04.2017,30.05.2017
03.08.2017, 17.10.2017 & 12.12.2017.

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ORDER

In the reference 1st read above, Sri ThummalaBhaskar Rao, S/o Late Subbaiah, R/o Asannagudem Village, Dammapeta Mandal, now Bhadradi Kothagudem Districtfiled Revision Petition before the Government through his counsel against the orders of the Addl. Agent to Govt., Khammam in CMA No. 66/2007, dated 28-06-2008 in respect of Acres 9-11 guntas in Survey No. 1294 of Nagupalli Village, Dammapeta Mandal, Bhadradi Kothagudem District

2. The main grounds of the Revision Petitioner are as follows:

- The Additional Agent to Government under revision is antedated, arbitrary, nullity, not in appreciation of the facts in accordance with law, ultra vires the provisions of Land Transfer Regulation 1/1970, excess of jurisdiction, against the principles of natural justice, against the binding precedents of the Hon'ble High Court of Judicature of A.P. and Supreme Court.
- Orders passed by the Additional Agent to Government without considering written arguments filed on 23.11.07.
- Without calling the connected records in LTR case No.375/05/DPT and LTR case No.1201/74 and LTR case No.102/2000/DPT from the Special Deputy Collector(TW).
- The Additional Agent to Government ought to have verified by calling the concerned registered consisting of the S.R. Number of the appeal and enquired the reasons for not numbering the appeal from 21.01.2006 till the year 2007.
- Additional Agent to Government has no jurisdiction or authority to adjudicate anything in respect of the possession of the petitioners who are claiming possession since long prior to the commencement of the Regulation.
- The possession of the property is since long prior to Regulation and the transaction was duly admitted by the ancestral.
- The regularizing the sale transaction by the competent authorities under ROR Act the claim of the respondent (Sri PottaYariyappa) (Tribal)is purely civil nature.

(Contd....2)

- While allowing the appeal to take over possession of the schedule land is not justified in directing the Tahsildar.
- The Appellate Authority passed the orders under revision within the observations on assumptions and presumptions.
- The Additional Agent to Government, Bhadrachalam failed to note that the provisions of Regulations 1/59 do not have any provision of appeal against the orders of the Additional Agent to Government.
- That the order under revision is against the binding decisions of the Hon'ble High Court of Judicature A.P. reported in 2006 (2) ALD 246 in WP.No.5320/05, ALT 2000 (Rev) page 66 & 88 in Kola Mahalaxmi Vs Special Deputy Collector(TW) and the full bench decision of Hon'ble High Court Apex Court reported in 1995 SCC 545.

3. In the reference 2nd read above, the Revision Petition was admitted and Stay granted on the orders of the Project Officer & Addl. Agent to Government, Bhadrachalam was requested to furnish Para Wise Remarks and connected case records and in the reference 3rd read above the Addl. Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

4. The remarks of the Addl. Agent to Government, Bhadrachalam on the Revision Petition are as under:

- The order of the Additional Agent to Government, Bhadrachalam is not antedated and it was passed after due verification and considering the Written Arguments passed orders.
- This appeal is filed before the Additional Agent to Government herein on 21.03.2006 showing one T.Koteswar Rao. During the trail one T.Ugander filed a death certificate stating that T.Koteswar Rao died on 26.05.2007 that means by the time of filing the appeal (21.3.2006) Koteswar Rao is alive. After filing the death certificate the order was passed on T.Ugander as his legal heir. Therefore it is not correct to say that the Additional Agent to Government passed orders without consideration the fact of the death. The Revision Petitioner T.Bhaskar Rao is not a party before the Lower Court.
- It is not correct to say without calling for connected records from the Spl. Deputy Collector(TW) passed orders. The Additional Agent to Government while passing the orders called for lower court records and verified the records and passed orders. Sri PottaYariyappa filed the appeal on 21.01.2006 stating that he received order on 22.11.2005. According to that the said appeal is filed in time.
- The Revision Petitioner is not a party before the lower court. The alleged document dt:21.10.1961 is not filed before the 1st respondent. Without filing any document of alleged sale the Revision Petitioner is claiming the property. Therefore the Revision Petitioner plea is not correct.
- As per the pahanies filed by Sri PottaYeriyappa before the Additional Agent to Government from one PottaVenkappa was shown as pattadar from years 1961-62, 1962-63, 1965-66, 1967-66, 1967-68 and the name of PottaYariappa and his family members shown as pattadars in the year 1970-71. Only in the year 1965-66 the name of TummalaSubbaiah shown as enjoyer in Col.No.16. It is clear that he is not the pattedar and land belongs to Tribal family who is the PottaYariyappa as 4th respondent. The Revision Petitioner has not filed any documentary proof to show that his possession is prior to the regulation. Therefore the 1st respondent after due enquiry passed order.

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- The Revenue authorities while issuing pattedar pass books must verify whether the sale transaction has taken prior to the regulation, then only the pattedar pass book /13-B certificates should be issued. But in this case the authorities have not observed the rules and regulations and issued pass book without observing the Regulation as the scheduled land is situated in the scheduled area.
 - Additional Agent to Government, rightly directed the Tahsildar to take possession by conducting a panchanama after due enquiry with record passed such order, after due enquiry and directed the Tahsildar to take possession by conducting a Panchanama.
 - The Revision Petitioner has not filed any documentary proof prior to Regulation. The 4th respondent Sri PottaYariyappa S/o.Venkappa in R.P. has filed pahanies from the 1961-62, 1962-63, 1965-66, 1967-68 and 1970-71 shown PottaVenkappa as Pattedar, that means the scheduled property belongs to tribals.
 - The Regulation provides Revision to the Government against the orders of the Additional Agent to Government, Bhadrachalam. The Revision before the Government as per the Regulation.
 - The Revision Petitioner has not filed any document to prove his title. Hence the decisions furnished by the Revision Petitioner not applicable to this case.
 - In view of the above, that the orders passed by the Additional Agent to Government, Bhadrachalam is proper and legally correct according to the provisions of LTR 1/59 amended by 1/70 and prayed the Government to dismiss the revision petition.
5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents and written arguments produced before the authority as well as before the Addl.Agent to Government observed that;
- The Revision Petitioner's main plea is that his ancestors have purchased the land to an extent of Ac.9-11 gts in S.No.1294 of Nagulapally(V), Dammamet(M), Khammam District through a sale deed on 05.02.1962 from original pattadar Sri PottaVenkaiah and that he has been in continuous possession from that date and hence the transfer is not hit by Regulation 1 of 59 read with Regulation 1 of 70.
 - The LTR case was initiated by the Spl.DeputyCollector(TW) Paloncha vide case No.1201/74 who after due verification of the records has disclosed that the land was sold long back by the tribal petitioner who also deposed that the land was sold and that he does not lay claim for the land. Therefore, the Spl. Deputy Collector dismissed the petition vide case No.1201/74, dt.27.08.75.Later another case No. 376/2005 was initiated on the report of Dy.Tahsildar (TW) Bhadrachalam on 26.2.2000,wherein the Spl.DeputyCollector(TW) after due verification of the available records on 19.10.2005passed orders in respect of Sy.No.1294 to an extent of Acs.13.32 of Nagupalli(V) in favour of Sri ThummalaSubbaiah who is the father of the Respondent (Present Revision petitioner)., as the case comes under "Resjudicata operation".
 - Against the said orders Sri PottaYeriappa S/o Venkappa (S.T) has filed an appeal before the Addl.Agent to Govt. Bhadrachalam in CMA No.66/2007. After hearing the case the Addl.Agent to Govt., Bhadrachalam held that Sri PottaYeriappa S/o Venkappa is the original Pattadar and belongs to Tribal Community and that the lower court dropped the case on the principles of "Resjudicata".
 - He also held that the Respondent or his family members names never find place either in pattadar column or in enjoyers column except in the year 1965-66 as enjoyer whereas the appellant is shown as pattadar from

1961-62 to 1974-75. Finally the Addl.Agent to Government allowed the appeal of Tribal appellant.

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- Aggrieved by the orders of Addl.Agent to Govt. dt.28.6.2008 Sri T.Bhaskar Rao S/o Subbaiah R/o Asannagudem, Dammamet(M), Khammam District filed the Revision Petition. Alongwith the Revision Petition he filed a copy of pattadar pass book No.1725 issued by M.R.O., Dammamet(M) on 14.7.1996. At the time of hearing he has admitted that his ancestors purchased the land in Sy.No.1294 situated at Nagupalli(V), Dammapeta(M) to an extent of Ac.9-11 gts on 05.02.1962 through sada saledeed on non judicial stamp paper. But he has not produced any copy of the said saledeed. Further the land was not got registered. Unless it was registered he cannot claim it as sale deed.
- As seen from the pahanies available in record his father's name was entered as enjoyer in the year 1965-66 only whereas the Respondent is shown as pattadar and enjoyer from 1961-62 to 1974-75. As per his statement the passbook was issued in terms of 'RoR' which is a procedural law. Hence the Revision Petitioner failed to prove that the land in question Was purchased by him before the enforcement of Regulation 1 of 1970. The Addl.Agent to Govt. has also clearly discussed the issue. The Revision Petitioner could not produce any valid evidence to prove his claim of ownership on the land of Ac.9-11 gts in Sy.No.1294 at Nagupally(V), Dammapeta(M).

6. Government after careful examination of the matter here by rejects the Revision Petition filed by Sri T.Bhaskar Rao S/o Subbaiah and upholds the orders of the Addl.Agent to Govt., Bhadrachalam in CMA No.66/2007, dt.28-06-2008. The land in disputeshall be taken over by ejecting the person/persons whoever is in possession and restoreit to the tribal pattadar or his legal heirs.

7. The Addl.Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradri Kothagudem District shall take necessary further actionaccordingly. The original case records received in the reference 3rdread above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

1) Sri Thummala Bhaskar Rao, S/o Late Subbaiah, R/o Asannagudem Village, Dammapeta Mandal, Bhadradri Kothagudem District

2) Sri Potta Yariyappa, S/o Venkappa, R/o Thottipampu village, Dammapeta Mandal, Bhadradri Kothagudem District. (Respondent.

3) Sri Thummala Yugandhar, S/o Koteswar Rao, R/o Asannagudem Village, Dammapeta Mandal, Bhadradri Kothagudem District..(Respondent)

4) The Project Officer, ITDA and Additional Agent to Government, Bhadrachalam, Bhadradri Kothagudem District(w.e.)

Copy to :

The Spl. Deputy Collector(TW), Bhadrachalam, Bhadradri Kothagudem Dist. for information and necessary action.

The Tahsildar, Dammapeta Mandal, Bhadradri Kothagudem District for necessary action.

Sri K.Sarath, Advocate, Flat No.112, H.No.1-1-365/A,

Hima Sai Heights, Andhra Café Road, Street No.6, Jawahar Nagar, RTC X Roads, Hyderabad-500 020.

Sri G.Deendayal, Advocate, H.No.17-83, Sathupally, Srinivas Talkies Road, Sathupally, Erstwhile Khammam District.

P.S to M(TW)/P.S. to Secretary(TW)

SF/SC

// FORWARDED :: BY ORDER//

SECTION OFFICER